

REMARKS

The above-identified application has been carefully reconsidered in view of the Office Action mailed September 8, 2004. Early and favorable reconsideration and allowance of the application as now presented are respectfully requested.

The claims of the application have been carefully amended to overcome the objections and rejections under 37 C.F.R. § 1.75(c) and 35 U.S.C. § 112, respectively. It is respectfully submitted that all such objections and rejections have now been overcome. Should the Examiner require anything further with respect to the matters raised in paragraphs 1-10, inclusive, of the Office Action, the courtesy of a telephone interview is requested. It is believed that any remaining objections under 37 C.F.R. § 1.75(c) or rejections under 35 U.S.C. § 112 can be resolved by way of a short discussion between the Examiner and the undersigned attorney for applicants.

The claims of the application have been further amended and are now believed to be fully patentable over the prior art of record. For example, neither the Erickson nor the Burgess et al. patents which were relied upon in the Office Action teach the use of a plurality of non-flexible discharge arms, a discharge nozzle supported on each discharge arm, each of the discharge nozzles being selectively positioned relative to the housing and relative to each other, each of the discharge nozzles for discharging an insect controlling chemical agent into engagement with flying insects as now recited in claim 1 and similarly in claim 7.

In this regard it is respectfully pointed out that the device disclosed in the Erickson patent of record is not intended for the control of flying insects. Quite to the contrary, the Erickson device is intended for the application oil to trees and other plants. For this reason the discharge nozzle 8

9

of the Erickson device must be manually manipulable in order to insure an even coating of the oil spray discharged therefrom onto trees and other plants. In direct contract thereto applicants' now claimed comprises a plurality of nozzles which are selectively positionable on non-flexible discharge arms to discharge an insect controlling chemical agent into engagement with flying insects, thereby killing the insects. Thus, the Erickson references teaches directly away from applicant's device as disclosed and claimed in the application.

It is respectfully submitted that claims 1 and 7 as amended positively recite an electric pump, an automated electric control system, and means for supplying electric power to the pump and to the control system. Applicants' all-electric system is particularly use in residential and similar environments in that it completely eliminates both noise position, pollution, and air pollution, both of which are characteristic of the operation of gasoline engines.

As opposed to applicants' system, the device disclosed in the Erickson patent of record is driven by a gasoline engine. Such a device would be useful in the context of the Erickson device because it provides increased mobility and eliminates the need of connection to an electrical power supply. Thus, because the Erickson device is intended for use in orchards and other agricultural settings, use of a gasoline engine therein could be considered appropriate.

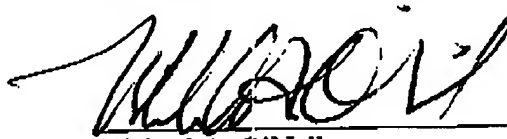
Applicants' note, however, that in the operation of the Erickson device combustible oil is first heated and then discharged into flowing air. As is well known, the operation of gasoline engines involves both sparks and elevated temperatures. Applicants suggest that the use of a gasoline engine to drive the Erickson system could easily result in a blow torch-like effect, as opposed to safely applying oil to trees and other plants.

10

For the reasons pointed out above, it is respectfully submitted that claims 1, 7, and the claims dependent therefrom are neither anticipated by or rendered obvious by either the Erickson patent of record of the Burgess patent of record or any logical combination thereof. Early and favorable reconsideration and allowance of the application as now presented are therefore respectfully requested.

Respectfully submitted,

MICHAEL A. O'NEIL, P.C.



Michael A. O'Neil
Registration No. 23,007

Date: October 13th 2004
5949 Sherry Lane, Suite 820
Dallas, Texas 75225
(214) 739-0088
(214) 739-8284 (Fax)

700650-1002 Amendment re notice of non-compliant amendment.wpd